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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/166203

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 22, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on June 23, 2015, at Elkhorn, Wisconsin.

The issue for determination is whether the Division correctly denied a prior authorization request for a non-preferred prescription drug, Harvoni.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: written submission of Lynn Radmer, R.Ph  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Walworth County. He is certified for Medicaid or BadgerCare Plus.
2. On April 14, 2015, a prior authorization request (PAR) was submitted on Petitioner's behalf for Harvoni, a non-preferred prescription drug. The cost is listed as \$486,049.08 for 365 doses. The

Department of Health Services (Department) issued a written notice of denial of that request on April 16, 2015.

3. The Department's basis for denial is that Petitioner's condition does not meet the severity standards that are conditions for approval.
4. Petitioner is 45 years of age (DOB [REDACTED]). Submitted medical records indicate that he has epilepsy, reflex sympathetic dystrophy in his right hand, hepatitis C and panic disorder. Details as to Petitioner's hepatitis C are not in the record other than to note he has hepatitis C but no cirrhosis and that he has had no biopsy or liver scan.
5. The documentation for this PAR does not show that Petitioner's hepatitis C has advanced to any of the following stages:
  - Compensated cirrhosis
  - Metavir score of F3 or greater or evidence bridging fibrosis
  - Serious extra-hepatic manifestations of hepatitis C virus (HCV)

### DISCUSSION

Federal Medicaid rules do not require a state to cover prescription drugs; such coverage is at state option. 42 C.F.R. § 440.225. The Wisconsin Medicaid program opted to pay for some prescription drugs. Wis. Admin. Code § DHS 107.10. Non-preferred prescription drugs must receive prior authorization as a condition of payment. *Id.*, 107.10(2)(d). In evaluating a prior authorization request, the program considers the authorization standards at § DHS 107.02(3)(e). Those standards include the requirements that the requested service be a medical necessity, appropriate, and cost effective, and that the existence of less expensive alternative services be considered. *Id.* The petitioner bears the burden of proving that these standards are met.

As an aid for consistent authorization request evaluation/approval for non-preferred, high-priced hepatitis C drugs, the Department's consultants prepared policy standards related to severity, which became effective in December 2014. Those published standards require that the patient's hepatitis C must have advanced to any of the following stages:

- Compensated cirrhosis
- Metavir score of F3 or greater or evidence bridging fibrosis
- Serious extra-hepatic manifestations of hepatitis C virus (HCV)

*ForwardHealth Update*, 2014-74 (November 2014) and *ForwardHealth Online Handbook*, at [https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=48&s=3&c=345&nt=Hepatitis C, Agents, Harvoni&adv=Y](https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=48&s=3&c=345&nt=Hepatitis%20C,Agents,Harvoni&adv=Y), Topic #17697, (viewed March 2015). The Wisconsin MA program does cover the less expensive prescription drug Interferon for treatment of less severe hepatitis C complications. *Id.*, *Preferred Drug List-Quick Reference*.

Little or no documentation has been submitted concerning Petitioner's hepatitis C and certainly nothing that demonstrates that Petitioner's condition has is at the levels identified in the above policy.

Petitioner contends that his provider may not have provided the documentation necessary to demonstrate that he meet the Medicaid standards but that it is not fair to penalize him for that lack of documentation. Nonetheless, the Division of Hearings and Appeals analysis applies the same standards as the Department and the documentation is not present to show that Petitioner meets the standards necessary for approval. He was so advised during the hearing and it was suggested that he have his provider(s) start the process over.

As the documentation does not establish that Petitioner meets the program's authorization requirements for Harvoni the Department correctly denied this prior authorization request for Harvoni.

### **CONCLUSIONS OF LAW**

That the Department correctly denied the prior authorization request for Harvoni.

**THEREFORE, it is**

### **ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

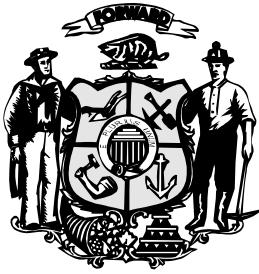
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 6th day of August, 2015

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 6, 2015.

Division of Health Care Access and Accountability